

MINUTES OF THE MARCH 2004 MEETING OF THE

ADMINISTRATIVE RULES REVIEW COMMITTEE

Date of meeting: A special meeting of the Administrative Rules Review Committee (ARRC) was held Monday, March 8, 2004, in Room 116, State Capitol, Des Moines, Iowa.

Members present: Representative George Eichhorn, Chair, and Senator Paul McKinley, Vice Chair; Senators Michael Connolly, John P. Kibbie, and Donald Redfern; Representatives Danny Carroll, Marcella Frevert, David Heaton, and Geri Huser.

Also present: Joseph A. Royce, Legal Counsel; Kathleen K. Bates, Administrative Code Editor, and Teresa Vander Linden, Assistant Editor; Brian Gentry, Administrative Rules Coordinator; fiscal staff, caucus staff and other interested parties.

Convened Chair Eichhorn convened the meeting at 9:02 a.m.

MEDICAL EXAMINERS BOARD Ann Mowery and Kent Nebel represented the board. Other interested parties included Libby Coyte of the Iowa Physician Assistant Society and Ed Friedmann of the board of physician assistant examiners.

ARC 3042B Mowery reported satisfactory resolution of concerns expressed by physician assistants. Coyte and Friedmann expressed appreciation to the committee and to the board of medical examiners for their efforts to reach a compromise, which will result in the rescission of the subrule requiring the supervising physician to be "actively practicing" in Iowa. Mowery advised Heaton that the standard for acceptable proximity of supervising physicians will be established through peer review. McKinley commended the boards for working out a solution to their differences.

Motion Kibbie made a motion to lift the 70-day delay.

Motion carried The motion carried. The amendments become effective March 9, 2004.

PROFESSIONAL LICENSURE DIVISION Pierce Wilson represented the division. Ed Friedmann represented the board of physician assistant examiners. Other interested parties included Denise Hill of the Iowa Medical Society and Ann Mowery of the board of medical examiners.

ARC 3165B (Reviewed in conjunction with ARC 3166B) Hill distributed written comments from the Iowa Medical Society and elaborated specific concerns regarding the proposed amendments to 327.1(1) and 327.4(1). Discussion pertained to the proposed amendments' expansion of the scope of practice of PAs and liability issues. Huser requested additional information regarding education and on-the-job experience required of physicians and physician assistants. Mowery noted that the board of medical examiners has concerns that are similar to those expressed by the Iowa Medical Society and hopes that the PA board will be willing to compromise.

ARC 3166B (Reviewed in conjunction with ARC 3165B)

EDUCATION DEPARTMENT Carol Greta represented the department.

ARC 3137B No action on amendments to the teacher quality program.

ARC 3136B Proposed amendments to ch 84 relate to financial incentives for national board certification. Greta reported that the amendments include teachers employed by AEAs, prorate awards for less-than-full-time teachers, and require appeals to be notarized. Carroll commented that Item 2, concerning proration, may be in conflict with portions of Iowa Code section 256.44. Discussion related to mentoring, use of AEA-employed teachers in classrooms, and the possibility for monitoring the achievement of students of nationally certified teachers.

COLLEGE STUDENT AID COMMISSION Gary Nichols represented the commission.

ARC 3157B Nichols reported that amendments to the osteopathic physician recruitment program allow universities to be proactive in areas of higher need.

ARC 3156B The amendment to 21.1 requires out-of-state postsecondary schools offering programs in Iowa to meet all certification, accreditation, and approval standards established for Iowa schools offering substantially similar programs. Frevert voiced concern about vertical infrastructure requirements that may apply to programs offered in border communities. Carroll noted that the commission is currently approving programs through a provision which appears in the secretary of state's chapter.

Motion to delay Carroll made a motion to delay the effective date 70 days while HF 2417, which amends Iowa Code chapter 261 to authorize the commission to provide program approval, is pending. Nichols indicated that there are no applications that would be affected by a delay.

Motion carried Following discussion of the procedural nature of the motion, the motion carried.

ECONOMIC DEVELOPMENT DEPARTMENT Hank Manning represented the department.

ARC 3151B No questions on CDBG application procedures.

HUMAN SERVICES DEPARTMENT	Nancy Freudenberg and Mary Nelson represented the department. Lisa Burk represented LSA's fiscal services division.
ARC 3163B	No questions on termination of the notice for amendments which were previously adopted and filed emergency.
ARC 3162B	No questions on termination of the notice for amendments which were previously adopted and filed emergency.
ARC 3154B	No action on amendments to ch 78 pertaining to prior authorization and the preferred drug list.
ARC 3209B	No questions on proposed amendments to ch 112 concerning licensing and regulation of child foster care facilities.
ARC 3153B	No questions on amendments to ch 153 relating to social services block grants and funding for local services.
ARC 3185B	No questions on proposed amendments to ch 202 regarding local transition committees for foster care services.
ARC 2900B	Amendments to ch 201 affecting the adoption subsidy program are under a 70-day delay. Freudenberg reviewed the purpose of the program, its increasing costs, and the recommendations of the adoption subsidy advisory group and outlined the final amendments which: grandfather in existing subsidies; eliminate the subsidy for minority children under two years of age; eliminate the payment for children who are at risk until the condition for which the child is at risk is diagnosed; limit eligibility for subsidy after the child reaches the age of 18; subtract income of the child from maintenance payments; eliminate the addition of a dollar per day for sibling groups of three and substitute a one-time payment of \$500 per sibling; eliminate the biannual review of the subsidy agreement and allow families to request a review when their circumstances change; allow expenses up to \$2000 for preplacement visits; limit attorney fees and court costs to \$700 for the first child and \$500 for each additional child; limit to \$200 nonrecurring expenses for children entering the United States for adoption; and require families who realize a higher price on the sale of their home due to modifications funded by subsidy to refund the department the difference. Freudenberg reviewed the department's plans for training and monitoring and asked that the delay be lifted.
Motion to delay	<p>Heaton commended the department's response to the concerns raised and expressed appreciation for the families that have adopted special needs children.</p> <p>In light of a concurrent resolution introduced by Huser for an interim study involving adoptive families and the department, Heaton moved a session delay.</p> <p>Nelson advised Gentry of a session delay's impact on the department's planning, training, and budget; Gentry urged the committee to lift the 70-day delay and allow the rules to go into effect. Freudenberg noted that the department would like many of these amendments to be implemented before the end of session and indicated that the study committee mandated by the concurrent resolution will not have completed its work by the end of session when a session delay would expire. Nelson stated that the department supports the resolution but believes that the rules can be implemented along with the study.</p> <p>Huser supported the session delay so that the appropriations and budgeting process can be completed. Frevert requested information comparing the cost of maintaining a special needs child in state care and the cost of subsidizing an adoption and indicated that the state needs to honor the commitments that it has made.</p> <p>Gentry commented on the difficult budget decisions the department must make and asked that the committee not prevent the department from acting within its authority to carry out its responsibilities. Kibbie inquired about the projected savings that would result from the amendments; Burk estimated a savings of about \$23,000 this year and \$100,000 next year.</p>
Motion carried	The motion carried; the amendments were delayed until the end of the legislative session.
ENVIRONMENTAL PROTECTION COMMISSION	Catherine Fitzsimmons, Jim McGraw, Dave Phelps, Jeremy Klatt, Reza Khosravi, Sara Smith, and Alex Moon represented the commission. Eldon McAfee represented the Iowa Pork Producers.
ARC 3155B	McGraw reported that the department has agreed to the request of some parties that the public comment period on these proposed air quality amendments be extended until June. A work group will be assembled to incorporate new EPA regulations, and to continue to address definitions and clarify policy for the prevention of significant deterioration (PSD) program. Frevert commended EPC for extending the period to continue working with industry representatives.

Environmental Protection Commission (continued)

- ARC 3169B Khosravi identified changes from the notice concerning construction and design standards for formed manure storage structures. McAfee reported that the department has met with the pork producers and that most concerns have been addressed. A remaining issue involves use of fiber; McAfee asked that the department watch for research that may indicate a possibility for this new technology. Kibbie offered positive comments regarding the cooperation between the associations and the commission.
- ARC 3167B Proposed amendments to ch 65 pertain to the phosphorous index. McAfee noted that the pork producers have strong concerns but believe that they can work with the commission through the rule-making process.
- ARC 3168B No action on amendments to ch 111 concerning municipal solid waste landfills.
- ELDER AFFAIRS DEPARTMENT** Mark Haverland and Debi Meyers represented the department. Cindy Haverkamp represented Iowa Health Care Association, Becky Groff represented AARP Iowa. Janet Specht represented Liberty Country Living.
- ARC 3145B No action on proposed amendments to chs 1, 3, 11, and 16 to 18.
- ARC 3143B No action on ch 8 concerning the long-term care resident's advocate/ombudsman. McKinley suggested incorporation of cost management and risk analysis training. Meyers agreed that such information would be valuable in the training.
- ARC 3144B No action on amendments to ch 9 pertaining to resident advocate committees.
- ARC 3142B No comments on the termination of the notice for ch 25.
- ARC 3146B Haverland distributed a summary of public comments on the proposed new ch 25 and the department's responses. In addition, Haverland indicated that pending legislation may provide for demonstration projects like Liberty Country Living; if the legislation does not pass, the department intends to initiate a comment period on such projects. Specht requested that dementia-specific facilities be afforded flexibility regarding room size and bathrooms. Groff expressed support for the rules. Haverkamp commented that the rules have benefited from much professional input.
- Committee business** Minutes of the February meeting were approved.
The next meeting was set for Monday, April 12, 2004, at 9 a.m.
There was discussion of amendments pertaining to feeder pig dealer bonding and letter of credit requirements, which were listed in the "No Rep" category of the agenda. Eldon McAfee commented that pending legislation may remedy some of the concerns of pork producers.
- Motion Kibbie moved a general referral.
- Motion carried The motion carried; feeder pig dealer bonding and letter of credit requirements are referred to the General Assembly.
There was discussion of pending legislation affecting the rule-making process and the committee. Huser expressed concern about the potential for unintended consequences. Gentry suggested that parties considering amending Iowa Code chapter 17A confer with Professor Arthur Bonfield at the University of Iowa. Frevert echoed Huser's concerns that some of the proposed legislation may be divisive.
- Adjourned The meeting was adjourned at 12:05 p.m.

Respectfully submitted,

Kathleen K. Bates

APPROVED:

Chair George Eichhorn

Vice Chair Paul McKinley